

REMARKS

This amendment is in response to the Official Action mailed on February 25, 2004, the shortened period of time for responding with a two month extension of time being set to expire on August 26, 2004. Claims 13-25 are pending in the application.

I. Claim Amendments

Applicant has amended claim 13 to include the recitation of a first predetermined substance and a second predetermined substance in the blood of a mammal, wherein the first and second predetermined substances are not the same. Claim 13 has also been amended to include the recitation that the disturbance in the dialyser is caused by changing the concentration of the second predetermined substance in the dialysis fluid, and measuring the change in concentration of the second predetermined substance in the dialysate. Because Applicant has incorporated the limitations of claim 16 into the independent claims, Applicant contends that no new matter has been added.

Claims 14 and 15 were amended to recite that the "predetermined substance" is a "first predetermined substance" in order to conform with amendments to claim 13. Claim 15 was further amended to recite that the initial mass of said first predetermined substance in a "body" of said mammal is calculated. Applicant contends that support for this amendment is found in the specification and that no new matter is added.

Claim 17 is now an independent claim that incorporates the limitations of former claim 23, as well as reciting that the first and second predetermined substances are different. Applicant contends that no new matter has been added.

Claim 18 now depends from claim 13, and claim 19 was amended to recite that a "first predetermined substance" comprises urea.

Claim 20 has been amended to recite that there is a first and second predetermined substance, and that the disturbance means comprises a means for changing the concentration of at least a second predetermined substance in

said dialysis fluid, including measuring means for measuring the change in the concentration of said predetermined substance in said dialysate. Applicant contends that because claim 20 incorporates the limitations of former claim 23, no new matter has been added.

Claims 21-22 were amended to recite that the predetermined substance is a "first" predetermined substances for purposes of conformity with newly amended claim 20.

Similarly, claim 24 has been amended to include the limitations of base claim 20. As such, Applicant contends that no new matter has been added.

Claim 25 now depends from claim 20 and was amended to recite that a "first predetermined substance" comprises urea.

Claims 16 and 23 were canceled.

As all of the abovementioned amendments are fully supported by the specification, Applicant contends that no new matter has been added.

II. Claim 35 U.S.C. § 112 Rejections

The Examiner has rejected claims 15-19 and 23~~26~~ as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Examiner has rejected claim 15 as lacking antecedent basis for "said body" found on line 8. For purposes of clarity, Applicant has amended the claim to recite that the initial mass of the first predetermined substance in "a body" of the mammal is calculated. Applicant contends that the Examiner's rejection is now moot.

The Examiner contends that claims 16, 17, 18, 19, 23, 24, 25, and 26 are indefinite and vague because it is unclear whether the second substance is different from the recited predetermined substance in the blood of the mammal recited in claim 13. Applicant has amended independent claims 13, 17, 20 and 24 to clearly identify that the first and second predetermined substances are *different* from one another, i.e., not the same. As all remaining objected claims depend from

these independent claims, Applicant contends that the Examiner's objections are overcome.

III. Claim 35 U.S.C. § 102(b) rejections

The Examiner contends that claims 13-14 and 20-21 are rejected under 35 U.S.C. § 102(b) as being anticipated by EP 547,025 to Sternby ("Sternby"). The Examiner has also rejected claims 13 and 20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,567,320 to Goux ("Goux").

In order to expedite prosecution of this case, Applicant has made several claim amendments, which now render the Examiner's rejections moot. The Examiner had already indicated that claims 15-19 and 23-26 were allowable (if rewritten to overcome the 35 U.S.C. § 112 rejections) because "none of the prior art of record teaches or fairly suggests determining the effective dialysance of a dialyser by changing the concentration of a second substance in the dialysis fluid, wherein the second substance is different from the first predetermined substance whose concentration is being measure in the original blood sample analyzed, and determining the effective dialysance from the resulting change in the concentration of the second substance." Applicant has amended independent claims 13, 17, 20, and 24, from which all other claims depend, to recite that the first and second predetermined substances are different and that the effective dialysance is measured from the resulting change in the concentration of the second predetermined substance. Applicant therefore contends that all of the claims now contain these limitations, which the Examiner stated distinguished certain of the previous set of claims over the prior art of record. Accordingly, Applicant contends that claims 13-23 are in condition for allowance.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 3, 2004

Respectfully submitted,

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